

Applicants provisionally elect, with traverse, the species of electric steering and drive system of

Figure 2 for further prosecution in the present application on which claims 11-16, and 18-23 read.

The Examiner has identified independent claims 11, 12, 22, and 23 24 as generic. Applicant submits that at least claims 13 and 16 are also generic.

Applicant reserves the right to pursue the provisionally non-elected claims in a divisional application prior to issuance of a patent on the instant application, if required.

ARGUMENTS

The Examiner asserts that the present application includes more than one species of the generic invention, and that the species are deemed to lack unity of invention under PCT rule 13.1 because they are not linked to form a single general inventive concept.

The Examiner has identified the following species:

1. The embodiment of Figure 1;
2. The embodiment of Figure 2;
3. The embodiment of Figure 3;
4. The embodiment of Figure 4;
5. The embodiment including a single traction motor and two independent current circuits; and
6. The embodiment including a fuel cell.

The Applicant has made the above elections provisionally, and request the reconsideration

and withdrawal of the election/restriction requirement. The requirement is traversed for the following reasons.

At the outset, it is noted that the Examiner relies upon PCT Rule 13.1 for the requirement, stating that the alleged different “species lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.” (Requirement, p. 2). Applicant respectfully disagrees.

Under the PCT, the concept of “unity of invention” means that allegedly different inventions are present, which means that the allegedly different inventions as claimed lack a “common technical feature”. MPEP § 1893.03(d) (“A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature.”).

In the first instance, it is noted that each of the claims to which the Restriction Requirement has been applied is a dependent claim, depending from claim 11. Each dependent claim includes all of the limitations of independent claim 11 and thus share a common technical feature, i.e., the limitations of claim 11. Even under the Examiner’s interpretation, there is currently pending an independent generic claim (claim 11) which embraces each of the delineated “species”.

As explained in Chapter 10 of the International Search and Preliminary Examination Guidelines, a lack of unity of invention exists only if the allegedly different inventions lack a common special technical feature. However, even though two dependent claims which depend from a single independent claim may claim different structure, they nonetheless present common technical features, *see, especially*, Example 12 of the International Search and Preliminary Examination Guidelines, ¶ 10.32: /

Claim 1: A display with features A + B.
Claim 2: A display according to claim 1 with additional feature C.
Claim 3: A display with features A + B with additional feature D.
Unity exists between claims 1, 2 and 3. The special technical feature common to all of the claims is features A + B.

Turning to the embodiments identified by the Examiner, the various identified species all contain common features, namely the features found in the language of claim 11. Therefore it is respectfully requested that the requirement be withdrawn.

In the event that the requirement is maintained, the above provisional elections are made with traverse, while the applicant maintain their right to seek rejoinder upon the allowance of a generic claim.

For at least the reasons provided above, Applicants submit that the Requirement for Election of Species is improper and should be withdrawn, and all claims should remain pending.

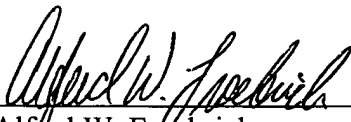
Numbered paragraph 5 of the Office action states that the "Examiner has required restriction between product and process claims." (Office Action at 3). Applicant notes that presently pending claims 11-23 are all directed to a product. There are no process claims pending. Thus, no election is required between product and process claims.

Applicant has responded to the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested. If the Examiner believes an interview would be of assistance, the Examiner is encouraged to contact the undersigned at the number listed below.

If any additional fees or charges required at this time in connection with this application, the same may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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